

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

November 4, 2004

A meeting of the Board of Environmental Protection was held on Thursday, November 4, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler

Board Nancy Anderson was absent

<u>Staff:</u>	Bureau of Air Quality	Jeffrey Kalinich
	Bureau of Land and Water Quality	Bill Hinkel
	Bureau of Land and Water Quality	Robert Stratton
	Bureau of Land and Water Quality	Brian Kavanah
	Bureau of Land and Water Quality	Greg Wood
	Bureau of Land and Water Quality	Richard Green
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Don Witherill
	Bureau of Land and Water Quality	Hetty Richardson
	Bureau of Remediation and Waste Management	Jamie Tansey

Others: David P. Littell, Deputy Commissioner
Carol Blasi, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 1:00 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Littell reported the following:

Legislative: The Department has drafted 14 bills. It is not decided whether the Department will move forward on all fourteen. The Board will receive a briefing on those bills that move forward through the Legislative process.

Lincoln Pulp and Paper: The Department spent 1.3 million dollars to address environmental issues at the Lincoln Pulp and Paper last year in an effort to keep the facility warm to prevent an environmental catastrophe. Following its reopening, the Lincoln facility has been in operation for six months demonstrating its ability to remain profitable during this operational timeframe. Although the Department will not recover the funds spent to keep the facility viable for papermaking, the State general fund has collected more general revenue than was expended by the Department.

Brewer Facility: The Brewer facility will not re-open for papermaking. However, the Department has secured federal funding to conduct a brownfields assessment that will allow for the redevelopment and assist the city's negotiations with two potential developers for this site.

Wolman Steel: The funds for the Wolman Steel brownfields site in Waterville were diverted to support the Lincoln Pulp and Paper and Brewer facility initiatives. This plant has lead contaminated soils and is adjacent to the George Mitchell elementary school. The Department will initiate a clean-up response action at this site. Tracy Weston, DEP Bureau of Remediation and Waste Management, has done an excellent job in approaching the property owner to negotiate a deal that would result in conveyance of ownership from Wolman to the City of Waterville. The City is considering using the Wolman site for their youth center project or for other purposes.

Questions:

Board member Jean Wilkinson asked about future press related to the success associated with the Lincoln Pulp and Paper facility.

The Deputy Commissioner agreed that some effort should be coordinated with the Governor's office to highlight the long-term benefit of the Department's actions and the tax benefit that will result from the profitable operation of the facility.

Board member Irving Faunce asked about the process for registration denial associated with the ZEV mandate.

The Deputy Commissioner communicated that the Department is working with the Secretary of State's Office to develop details of a registration denial program. Initially we would look to modify current forms to include a check box verifying vehicle compliance with emission standards on new cars or cars under 7,500 miles. This may result in one additional step for municipal staff and the Secretary of State's office staff. Enforcement issues would be deferred to the Department. It is unclear which Legislative committee will maintain oversight of this initiative. The Board will be considering provisional adoption of the related ZEV rule at its December 2nd meeting. The Department will advise the Governor's Office of the Board's support of registration denial initiative as expressed during the rulemaking hearing process.

B. CHAIRMAN'S COMMENTS:

Chairman Wardwell advised that a pre-hearing conference was held yesterday on the application by Inland Fisheries and Wildlife for an all-tidal boat ramp at Mere Point. Pending issues may result in a modification of the hearing schedule. Any scheduling changes will be communicated early next week.

C. EXECUTIVE ANALYST COMMENTS:

The Department will ask the Board to consider for decision staff recommendation on the Use Attainability Analysis for Ragged and Seboomook just prior to the start of the hearings at Mere Point. That documentation will be provided late next week.

D. BOARD CALENDAR:	Reviewed
E. DEPARTMENTAL ORDERS:	Reviewed
F. EXECUTIVE SESSION:	None

II CONSENT AGENDA ITEMS:

The Board voted (8-0-0-1) to approve as presented consent agenda item #1.

1. DOMTAR MAINE CORP., Baileyville – Administrative Consent Agreement and Enforcement Order (BAQ)

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

The Board voted (6-0-2-1) to approve the minutes of August 19th correcting the hearing location on page 16d to Bangor.

2. BEP MINUTES – August 19, 2004 (approval)

Board members Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, and Jean T. Wilkinson voted to support the motion. Board members Donald Guimond and Nancy Ziegler abstained. Board member Nancy Anderson was absent.

Regular Agenda

1. TOWN OF PITTSFIELD (appeal by the applicant of Maine Pollutant Discharge Elimination System Permit and Waste Discharge License)
Staff: William Hinkel, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to deny the appeal submitted by the Town of Pittsfield and affirm the Commissioner's decision in Department Order # ME0100528 and #W-001477-5L-F-R. The motion included minor amendment to Page 11 of the draft order correcting a reference from Chapter 523 to Chapter 521. The vote was taken pursuant to Title 33 USC, Section 1251 et. seq. (Federal Water Pollution Control Act) and 38 M.R.S.A. Section 414-A et seq and 06-096 CMR Chapter 2.

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

2. CHAPTER 424, LEAD MANAGEMENT REGULATIONS / AMENDMENTS (adoption*)
Staff: Jamie Tansey, Bureau of Remediation and Waste Management

The Board voted (8-0-0-1) on a motion to adopt Chapter 424, Lead management Regulation amendments as presented. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 1295.

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

3. CHAPTER 594, STATE CONTRIBUTION TO OVERBOARD DISCHARGE REPLACEMENT PROJECTS / AMENDMENTS (adoption*)
Staff: Richard Green, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 594, State Contribution to Overboard Discharge Replacement Projects as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and Sections 411-A(2-A), 413(3) and 414-A(1-B).

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

4. CHAPTER 500, STORMWATER MANAGEMENT and CHAPTER 502, DIRECT WATERSHEDS OF LAKES MOST AT RISK FROM NEW DEVELOPMENT, AND URBAN IMPAIRED STREAMS / AMENDMENTS (provisional adoption)

The Board voted (8-0-0-1) on a motion to provisionally adopt Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams to include the following changes:

Chapter 500, section 4D, page 10:

NOTE: The municipality, the Maine Department of Transportation, or the Maine Turnpike Authority, ~~the Maine Department of Transportation Authority~~ may require a project to meet additional design standards, ~~based on the 50-year or 100-year storm.~~ The department recommends that any applicant proposing a project **that has the potential to impact any roadway,** ~~discharges such that a~~ contact the appropriate entity.

Chapter 500:

(page 24) 10. Conditions of approval **for Stormwater projects**

(page 26) 10-A. Conditions of approval **for recertification of Site Law developments**

The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 413, 420-D, and 484

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

5. CHAPTER 532 LARGE COMMERCIAL PASSENGER VESSELS / NEW (post to written public comment)

Staff: Hetty Richardson, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to post Chapter 532, Large Commercial Passenger Vessels to written public comment and establish January 5, 2005 as the deadline for submittal of comments. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 413 and 423-D.

Board members Irving Faunce, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Nancy Anderson was absent.

Next Regular Board Meeting, Thursday, November 17, 2004 – Civic Center, Augusta

BOARD OF ENVIRONMENTAL PROTECTION
Holiday Inn / Ground Round, Augusta at 09:00 a.m.
November 4, 2004

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT(S)
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Proposed Wastewater discharge enforcement resolution open for public comment Pursuant to 38 M.R.S.A. §347-A(6)

PORTLAND WATER DISTRICT, PORTLAND (Staff: John Glowa, 287-7783)

<i>Tentatively scheduled for Board Action on November 17, 2004</i>
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II. CONSENT AGENDA ITEMS

- 1. DOMTAR MAINE CORP., Baileyville – Administrative Consent Agreement and Enforcement Order (BAQ)
- 2. BEP MINUTES – August 19, 2004 (approval)

III. REGULAR AGENDA ITEMS

- 1. TOWN OF PITTSFIELD (appeal by the applicant)
Staff: William Hinkel, Bureau of Land and Water Quality
- 2. CHAPTER 424, LEAD MANAGEMENT REGULATIONS / AMENDMENTS (adoption*)
Staff: Jamie Tansey Darling, Bureau of Remediation and Waste Management
- 3. CHAPTER 594, STATE CONTRIBUTION TO OVERBOARD DISCHARGE REPLACEMENT PROJECTS / AMENDMENTS (adoption*)
Staff: Richard Green, Bureau of Land and Water Quality
- 4. CHAPTER 500, STORMWATER MANAGEMENT and CHAPTER 502, DIRECT WATERSHEDS OF LAKES MOST AT RISK FROM NEW DEVELOPMENT, AND URBAN IMPAIRED STREAMS / AMENDMENTS (provisional adoption)
- 5. CHAPTER 532 LARGE COMMERCIAL PASSENGER VESSELS / NEW (post to written public comment)
Staff: Hetty Richardson, Bureau of Land and Water Quality

Next Regular Board Meeting – Thursday, November 17, 2004 – Atrium Conference Center / Brunswick

*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman